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59 Atl. 277; *In re Waldron's Will*, 74 Misc. Rep. 310, 133 N. Y. Supp. 1104; *In re Title Guaranty & Trust Co.*, 114 App. Div. 778, 188 N. Y. 542, 100 N. Y. Supp. 243, 80 N. E. 1121 (where only one provision of the will held invalid). *Contra. Executors of Andrews v. His Administrators*, 7 Ohio St. 143; *Kelly v. Davis*, 37 Miss. 76; *In re Fry's Estate*, 96 Mo. App. 208, 70 S. W. 172 (here executor successfully defended the will against an attack by one of the legatees).

It is held that even though the executor has not qualified, if the validity of the will is upheld in a contest, then attorney's fees are payable out of the estate, on the ground that the estate is benefitted by the contest. *Fillinger v. Conley*, 163 Ind. 584, 72 N. E. 597; *In re Hentge's Estate*, 124 N. W. 929, 26 L. R. A. (N. S.) 757.

It has been held that good faith on the part of the executor is the controlling element, irrespective of his qualification or the outcome of the controversy. If he have reasonable grounds to believe the will is invalid, then the contest is at his peril. *Henderson v. Simmons*, 33 Ala. 291, 70 Am. Dec. 590.

FALSE IMPRISONMENT—JUSTICE OF THE PEACE—LIABILITY FOR OFFICIAL ACTS.—Defendant, a justice of the peace, acted in excess of his jurisdiction in fining and imprisoning plaintiff for contempt and was sued to recover damages for the false imprisonment. *Held*, no action will lie. *Flint v. Lonsdale* (Okla.), 139 Pac. 268.

Such as are by law made judges of another shall not be criminally accused or made liable in a civil action for what they do as judges. *Floyd v. Barker*, 12 Coke 23. No action lies against a judge for erroneous acts when he has jurisdiction. *Gwinne v. Poole*, 2 Lutw. 1560. Judges of courts of superior and general jurisdiction are not liable in civil actions for their judicial acts, even when such acts are in excess of their jurisdiction and are alleged to have been done maliciously or corruptly. *Bradley v. Fisher*, 13 Wall. (U. S.) 335. A justice is not liable for enforcing a void city ordinance. *Henke v. McCord*, 55 Iowa 378, 7 N. W. 623. Nor is one who in the exercise of his honest judgment passes on the constitutionality of an ordinance. *Brooks v. Mangan*, 86 Mich. 576, 49 N. W. 633. And a justice is not liable for causing the arrest of one who failed to obey a subpoena even though the subpoena was defective. *Allec v. Reecc*, 39 Fed. 341. A justice acting in good faith and having jurisdiction of the parties and subject matter is not liable for acts in excess of that jurisdiction. *Austin v. Vrooman*, 128 N. Y. 229, 28 N. E. 477, 14 L. R. A. 138. Only a colorable jurisdiction need be shown. *Grove v. Van Duyn*, 44 N. J. L. 654, 43 Am. Rep. 412. *Broome v. Douglass*, 175 Ala. 258, 57 So. 860, 44 L. R. A. (N. S.) 164. No judicial person is liable for acts within his jurisdiction the only distinction between judges of superior and inferior jurisdiction being that in the case of the latter jurisdiction must be made to appear. *Lund v. Hennessy*, 67 Ill. App. 233.

It would seem that the tendency of modern authorities is to place judges of courts of inferior jurisdiction on a plane with judges of courts of record as regards responsibility for official acts. The decision in the principal case is supported by the weight of authority.